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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,338	01/17/2003	Brian Francis Gray	AA431 F	1452
27752	7590	03/29/2006	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			GIBSON, KESHIA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/089,338

Applicant(s)

GRAY ET AL.

Examiner

Keshia Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, see page 3 of 5, filed 1/18/06, with respect to the rejection under 35 USC 112, first paragraph have been fully considered and are persuasive. The rejection of Claim 10 under 35 USC 112, first paragraph has been withdrawn.
2. Applicant's arguments filed 1/18/06 have been fully considered but they are not persuasive. Applicant has argued that neither Mizutani nor Hanser teach or suggest a flap adhesive cover comprising a treated barrier sheet as claimed by the present invention.
3. However, the applicant has presented arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner has presented Hanser for teaching of why one of ordinary skill in the art would be motivated to modify the topsheet flap adhesive cover of Mizutani so as to provide it with a oil-based skin composition as well as motivation to treat the flap adhesive cover associated therewith. Hanser has not been relied upon as anticipating the claimed invention.
4. Despite applicant's arguments, Mizutani in view of Hanser is/are still considered ~~to anticipate and/or~~ render obvious the structural limitations set forth in the claimed invention, as presented in the previous Office Action.

### ***Claim Objections***

5. Claim 10 is objected to because of the following informalities: it is suggested that language be added to define the element from which the barrier sheet is releasable. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani (US 5,683,377) in view of Hanser.

In regard to Claim 1 and 10, Mizutani discloses an absorbent article 1 having a topsheet 3, a backsheet 4, an absorbent core 5, longitudinal side edges 17, 18, flaps 7 having an adhesive 9 on their garment facing surface; a flap cover/barrier sheet 2/12 covers the

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flap adhesive and is releasable from the article (whole document). Mizutani does not expressly disclose that at least a portion of the topsheet has a skin care composition provided thereon or that the barrier sheet is treated. Hanser discloses an absorbent article having a topsheet, backsheet, core, longitudinal side edges, flaps having an adhesive, a flap cover, and a barrier sheet 25/125/etc (whole document). Hanser further discloses that topsheets having oil-based skin composition placed thereon reduce the adherence of body exudates to the skin of the wearer, thereby improving the ease of clean up (page 22, lines 22-27; page 20, lines 5-16; page 21, line 31-page 24, line 17). The barrier sheet may serve to protect the lotioned topsheet and may be treated with silicone and polyvinyl alcohol (PVA), which would be a selection from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, and mixtures thereof (page 18, lines 26-page 20, line 16). One of ordinary skill in the art would have been motivated to modify the article of Mizutani by providing the topsheet with an oil-based composition and further comprising a barrier sheet treated with silicone and polyvinyl alcohol (PVA), since doing so would reduce the adherence of body exudates to the skin of the wearer and also provide releasable protection for the lotioned topsheet. Thus, it would have been obvious to one of ordinary skill in the art to modify the article of Mizutani by providing the topsheet with an oil-based composition and further comprising a barrier sheet treated with silicone and polyvinyl alcohol (PVA), which would be a selection from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, and mixtures thereof, as taught by Hanser, since doing so

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would reduce the adherence of body exudates to the skin of the wearer and also provide releasable protection for the lotioned topsheet.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keshia Gibson whose telephone number is (571) 272-7136. The examiner can normally be reached on M-F 8:30 a.m. - 6 p.m., out every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Keshia Gibson  
Examiner  
Art Unit 3761

klg 3/21/06



TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER